



November 15, 1999

Mr. Duncan R. Fox
Assistant Chief
Legal Services
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR99-3237

Dear Mr. Fox:

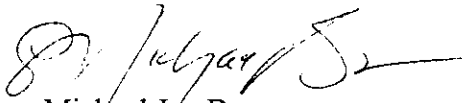
You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 128781.

The Department of Public Safety (the "department") received a request for all documents used in the department's suspension of the driver's license of a client of the requestor. You relate that most of the responsive information has been released to the requestor. You seek to withhold only the medical records of third parties. You claim that release of these records is subject to article 4495b of Vernon's Texas Civil Statutes, and that they are excepted from disclosure under section 552.101 of the Government Code in conjunction with the common-law right of privacy. We have considered the arguments you raise and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. This section encompasses the common-law right to privacy. The common-law right to privacy protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). From our review of the submitted documents, we conclude that this information is protected by the common-law right of privacy and must be withheld under section 552.101 of the Government Code.

As the subject information must be withheld under section 552.101 of the Government Code, we do not address the application of the Medical Practices Act to this information. We conclude that the subject information must be released. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Jay Burns", with a long horizontal flourish extending to the right.

Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 128781

Encl. Submitted documents

cc: Mr. C. David Easterling
Easterling & Easterling
1018 Preston, 6th Floor
Houston, Texas 77002-1877
(w/o enclosures)